

§215.10

(ii) Specify that an appeal must be postmarked and submitted to the Appeal Deciding Officer within 45 days of the date of publication in accordance with §215.13;

(3) For those decisions on which no comment was received, state that the decision is not subject to appeal pursuant to §215.8(a)(4).

(c) *Mailing decision documents.* The Responsible Official shall promptly mail the decision document to those who request the specific document and to those who submitted comments on the proposed action either before or during the comment period provided pursuant to §215.6.

§215.10 Implementation of decisions.

(a) If no appeal is filed, implementation of decisions subject to appeal pursuant to this part may occur on, but not before, 5 business days from the close of the appeal filing period.

(b) If an appeal is filed, implementation may not occur for 15 days following the date of appeal disposition. In the event of multiple appeals of the same decision, the date of the disposition of the last appeal controls the implementation date.

(c) If a project is not appealable because, pursuant to §215.8(a)(4), no expression of interest has been received and there is no change from the proposed action, implementation may occur immediately upon publication of the notice of the decision as provided in §215.9.

(d) A project decision is not subject to a stay if the Chief of the Forest Service determines that an emergency situation exists with respect to the decision in accordance with the following provisions of this paragraph:

(1) An emergency, as defined here, is an unexpected event, or a serious occurrence or a situation requiring urgent action. Examples of an emergency include, but are not limited to, the following:

(i) Vegetation loss which presents an immediate threat of flooding or landslide.

(ii) Hazardous or unsafe situations as a result of wildfire or other circumstances.

(iii) Damage to water quality caused by siltation due to fire or flooding.

36 CFR Ch. II (7–1–02 Edition)

(iv) Potential loss of fish and wildlife habitat due to windstorms and blowdowns.

(v) Sudden outbreaks of forest pests and diseases.

(2) The Responsible Official shall notify the public that the Forest Service intends to handle this project as an emergency in the public notice on proposed actions as provided in §215.5(c)(1). Actions responding to emergency situations may be accomplished with force account (Forest Service crews), service contracts or timber sale contracts.

§215.11 Who may participate in appeals.

(a) Except as provided for in paragraph (c) of this section, an appeal pursuant to this part may be filed by any person who, or any non-Federal organization or entity that has met either of the following criteria:

(1) Submitted written comment in response to a project draft Environmental Impact Statement; or

(2) Provided comment or otherwise expressed interest in a particular proposed action by the close of the comment period specified in §215.6.

(b) Persons interested in or potentially affected by an appeal may participate as an interested party, as provided in §215.13(e).

(c) Federal agencies may not participate as appellants or interested parties.

(d) Federal employees filing appeals under this part shall comply with Federal conflict of interest statutes at 18 U.S.C. 202–209 and with employee ethics requirements at 5 CFR part 2635. Specifically, employees shall not be on official duty or use government property or equipment in the preparation or transmittal of an appeal. Employees also shall not use official information not yet released to the public.

[58 FR 58910, Nov. 4, 1993, as amended at 63 FR 4188, Jan. 28, 1998]

§215.12 Where to file appeals.

The Appeal Deciding Officer with whom appeals must be filed are as follows: